

ORDINANCE NO. 03-\_\_

AN ORDINANCE OF LEON COUNTY AMENDING ARTICLE 5  
OF CHAPTER 10 OF LEON COUNTY CODE OF ORDINANCES  
PROVIDING FOR THE TERMINATION OF VESTED RIGHTS  
PREVIOUSLY GRANTED AND ~~TERMINATION~~  
“SUNSETTING” OF PRESUMPTIVE VESTING OF EXEMPT  
SUBDIVISIONS; PROHIBITING CONVERSIONS OF VESTED  
RIGHTS; PROVIDING FOR SUMMARY EXTENSIONS OF  
VESTED RIGHTS BY THE GROWTH MANAGEMENT  
DIRECTOR; PROVIDING FOR EXTENSIONS OF VESTED  
RIGHTS AFTER HEARING; PROVIDING FOR CONFLICTS OF  
SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON  
COUNTY, FLORIDA, that:

**Section 1.** Definitions.

Sec. 10-96 of Chapter 10 of the County Code or Ordinances shall be amended as follows:

As stated in section 10-1, the definitions in section 10-1 apply to this article. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Building permit* shall not include foundation permit.

*Development* shall mean the particular development activity authorized by the unexpired development order issued for a specific project.

*Director* shall mean the ~~Tallahassee-Leon County~~ Community Development Director or his designated representative.

*Final development orders* shall mean for purposes of a determination of vested rights in a previously-approved development, the following unexpired development orders:

- (1) ~~Exempt subdivision.~~
- (2) ~~Minor subdivision.~~
- (3)(1) Preliminary subdivision plat approval.
- (4)(2) Final subdivision plat approval.

1       ~~(5)~~(3) Final site plan approval (pursuant to article VIII).  
2

3       ~~(6)~~(4) Approval of a PUD concept plan.  
4

5       ~~(7)~~(5) Approval of a PUD final development plan.  
6

7       ~~(8)~~(6) Building permit.  
8

9       ~~(9)~~(7) Any other development order which approved the development of land for a  
10           particular use or uses at a specified intensity of use or uses and which allowed  
11           development activity on the land for which the development order was issued.  
12

13       *Lot of record* shall mean a designated parcel, tract or area of land established by plat, metes  
14       and bounds description, or otherwise permitted by law, to be used, developed or built upon as a unit  
15       and which existed in the records of the county property appraiser upon the effective date of the  
16       county's subdivision regulations, January 1, 1984.  
17

18       **Section 2.**       Administrative procedures.  
19

20       Section 10-98. Vested categories.  
21

22       The following categories shall be presumptively vested for the purposes of consistency with  
23       the comprehensive plan and concurrency as specified in the comprehensive plan and shall not be  
24       required to file an application to preserve their vested rights status:  
25

26       (1)     All lots within a subdivision recorded as of July 16, 1990, or lots in approved  
27           unrecorded subdivisions for which streets, stormwater management facilities, utilities  
28           and other infrastructure required for the development have been completed as of July  
29           16, 1990. The planning Community Development Department shall maintain a  
30           listing of such exempt subdivisions.  
31

32       (2)     All active and valid building permits issued prior to July 17, 1990. All technically  
33           complete building permit applications received by the Growth and Environmental  
34           Management ~~and permitting~~ Department on or before July 2, 1990, and subsequently  
35           issued, shall be vested under the provisions of the comprehensive plan, regardless of  
36           the date of issue.  
37

38       (3)     Any structure on which construction has been completed and a certificate of  
39           occupancy issued if a certificate of occupancy was required at the time of permitting.  
40

41       **Section 3.**       Termination of Vested Rights and Prohibition of Conversions of Vested  
42           Rights.  
43

44       The Code of Laws of Leon County, Florida, is hereby amended by adding a section to be  
45       numbered Sec. 10-100, which section reads as follows:

1        Sec. 10-100. Termination Sunsetting of Vested Rights and Prohibition of  
2        Conversions of Vested Rights.

3        (a) Prohibition of Conversions of Vested Rights: As of ~~March~~ November 1, 2003,  
4        no vested rights shall be converted from a use approved in a vested rights  
5        certificate, subdivision plat, or other final development order to another use  
6        not addressed in the vested right certificate, subdivision plat or other final  
7        development order. If the vested right certificate, subdivision plat or other  
8        final development order is silent on the approved sue, the use, including the  
9        density and intensity of the use, shall be determined by the Director based  
10       upon the County Code in effect when the vested rights were granted, taking  
11       into consideration the uses on surrounding properties in order to insure  
12       compatibility with the surrounding area.

13       (b) TerminationSunsetting of Vested Rights

14       (1) Any vested right certificate granted by the County under this Article  
15       shall expire on ~~October~~ January 1, 2003~~4~~, unless extended as provided  
16       in paragraph (4) below; or unless the owner of a vested parcel, or the  
17       owner's agent, has received a final development order or has  
18       submitted a valid application for a development order on or before  
19       ~~October~~ January 1, 2003~~4~~, in which case the vesting certificate shall  
20       expire on April 1, 2004~~5~~, unless construction has commenced and is  
21       continuing in good faith.

22       (2) If a decision on a final development order received under Sec. 10-96  
23       paragraph (5) herein is challenged under the procedures set forth in  
24       Sec. 10-114 of Chapter 10 of this Code or in Florida Statutes, the  
25       termination of the vesting certificate shall be tolled until six months  
26       after the resolution of all challenges.

27       (3) The termination provision in this paragraph shall not apply to any  
28       vesting certificate which is protected by a court order, court-approved  
29       settlement agreement, or a settlement agreement approved by a  
30       Division of Administrative Hearings hearing officer.

31       (4) Extension of exemption or vested rights:

32       (a) Summary extension by Director:

33       1. Any property owner of vested property in an approved  
34       nonresidential subdivision with all infrastructure in  
35       place for each lot, including roads, water, sanitary  
36       sewer, stormwater management facilities (when  
37       required as part of the subdivision approval), gas, and  
38       any other required infrastructure, may request an  
39       extension of an exemption on vested rights prior to  
40       ~~October~~ January 1, 2003~~4~~.

41       2. The request shall include a sworn affidavit  
42       documenting that all infrastructure necessary to serve  
43       each lot within the nonresidential subdivision is in  
44       place, and shall be submitted to the Director.

45       3. The Director shall review the request, and verify that

1 the required infrastructure is in place prior to making  
2 a decision. The Director may request additional  
3 documentation from the applicant, if he/she feels it  
4 necessary' and may review City or Leon County  
5 records or files related to the application. The  
6 Director's decisions on the request may be to approve,  
7 deny, or approve with conditions; and shall be  
8 reduced to writing. If the Director determines that all  
9 infrastructure necessary to serve each lot within the  
10 nonresidential subdivision is in place, the request for  
11 an extension of vested rights shall be approved. The  
12 Director shall set an expiration date for the summary  
13 extension of vested rights to be no more than two (2)  
14 years from the date of the decision.

15 4. A denial by the Director shall not foreclose the  
16 applicant from seeking an exemption under Section  
17 10-111 herein, so long as the application is submitted  
18 within ten (10) days after the Director's decision is  
19 rendered or before OctoberJanuary 1, 20034,  
20 whichever is later.

21 5. The Director's decision may be appealed by petition  
22 for writ of certiorari to the Leon County Circuit Court  
23 within 30 days after the Director renders a decision on  
24 the request. The record to be reviewed shall consist of  
25 the request from the applicant, with all supporting  
26 documentation; any other documents relied upon by  
27 the Director in reviewing the application; and the  
28 Director's written decision.

29 (b) Extensions after hearing by hearing officer:

30 1. Any property owner of vested property may request an  
31 extension of an exemption or vested rights under Sec.  
32 10-111 prior to OctoberJanuary 1, 20034. The request  
33 shall meet the requirements of Sec. 10-111 herein, and  
34 shall be filed with the Growth—Management  
35 Community Development Department.

36 2. The request file under this paragraph shall be referred  
37 to a hearing officer for a hearing. The hearing officer  
38 shall be selected pursuant tot he guidelines set forth in  
39 Sec. 10-115 herein.

40 3. The property owner proceeding under this paragraph  
41 may request that a formal quasi-judicial hearing be  
42 conducted. The parties to the hearing shall be the  
43 County and the owner requesting the extension. The  
44 parties shall have the right to call witnesses, present  
45 sworn testimony, cross examine witnesses, and be

represented by counsel.

4. If a formal quasi-judicial hearing under paragraph (b) 3. above is not requested within 10 days after notice is served on the property owner that a hearing has been scheduled, the right to a formal quasi-judicial hearing is waived; and the hearing shall be conducted under procedures established by the hearing officer.
5. In determining whether an exemption or vested rights should be extended, the hearing officer shall consider the evidence presented by the parties as to whether development has occurred on the property since 1990; whether the development and/or property is substantially developed; and whether the development is continuing in good faith. The hearing officer's decision shall be in writing, and shall include a termination date for the extending vested rights or exemption. The termination date shall be based on the evidence presented by the parties.
6. The hearing officer's decision shall be final, with appeal by petition for writ of certiorari to the Leon County Circuit Court within 30 days after the hearing officer rules on the request.

(c) Waiver of right to request extension: If a request for an extension under paragraphs (a) or (b) above is not submitted to the Growth Management Community Development Department prior to ~~October~~ January 1, 2003~~4~~, the right to request an extension is waived and the exemption of vested rights shall be terminated as provided herein.

#### **Section 4.** Notice.

Notice of the termination of exemptions and vested rights as provided herein shall be mailed by regular U.S. Mail to all current owners of undeveloped property in exempt subdivisions or undeveloped property with vested rights certificates granted under the vested rights review ordinance. The notices shall be mailed on or before ~~March~~ August 1, 2003~~4~~, and again on or before ~~June 1, 2004~~ to owners of the property as reflected in the Leon County Property Appraiser's records, at the address provided in those records. In addition, notices shall be published ~~on or about August 15, 2003; November 15, 2003; February 15, 2004; June 15, 2004; and September 1, 2004,~~ in a newspaper of general circulation, under the guidelines in Section 166.041(3)(c)2.b., Fla. Stat. (2001), except that a map shall not be required.

#### **Section 5.** Conflict With Other Ordinances and Codes

All ordinances or parts of ordinances of in the Code of Ordinances Laws of Leon County, Florida, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan is amended, which provisions shall prevail over any part of this ordinance which are inconsistent, either in whole or in part, with the Comprehensive Plan.

**Section 6.** Severability.

If any provision or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as separate, distinct, and independent provisions and such holdings shall not affect the validity of the remaining portions of the ordinance.

**Section 7.** Effective Date.

This ordinance shall become effective ~~immediately~~ upon ~~adoption~~ becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

LEON COUNTY, FLORIDA

BY: \_\_\_\_\_  
TONY GRIPPA, CHAIRMAN  
BOARD OF COUNTY COMMISSIONERS

ATTESTED BY:  
BOB INZER, CLERK OF THE COURT

BY: \_\_\_\_\_

APPROVED AS TO FORM:  
COUNTY ATTORNEY'S OFFICE  
LEON COUNTY, FLORIDA

BY: \_\_\_\_\_  
HERBERT W.A. THIELE, ESQ.  
COUNTY ATTORNEY